



**FINAL DRAFT**

**INFORMAL**

**TRADING POLICY**

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## 1. Introduction

Informal economic activity is increasingly recognised as an important component of Johannesburg's overall economy. Informal economic activity is not a separate economy but is linked to the mainstream economy in various ways. For many households informal economic activity is an important source of income. It sustains significant numbers of people in a context of high unemployment. Increasingly, informal economic activity is a source of employment for younger populations. It is an important mechanism through which people can access livelihoods and stake a claim in the urban economy.

One key component of informal economic activity is informal trade. In Johannesburg, informal trade is not only a form of self-employment but is also an important creator of jobs. Collectively the contribution of informal traders to the economy of Johannesburg is substantial.

The South African informal economy, while comparatively smaller than that of other countries in the global south, accommodates roughly a third of the workforce. The results of the QLFS [Quarterly Labour Force Survey] for the first quarter of 2020 indicate that employment decreased by 38 000 to 16.4 million, and the number of unemployed persons increased by 344 000 to 7.1 million. As a result, the official unemployment rate increased to 30.1% compared to the fourth quarter of 2019, with the youth (aged 15-34 years) being the most affected by joblessness" (Stats SA, 2020). Stats SA also state that "in the first quarter of 2020, there were 20.4 million young people aged 15-34 years. These young people accounted for 63.3% of the total number of unemployed persons. South Africa's informal economy is estimated to involve 4.9 million people.

Public space is an invaluable resource for the provision of goods and services through informal trade. In particular, streets with intense pedestrian traffic are viable and attractive for informal trade and are often linked to public transport routes. For pedestrians, street trade provides the convenience of an on-street purchase, small volumes and low prices. There is often a mutually beneficial relationship between formal shops and traders. Street trading is thus an essential locus of economic activity within a wider spectrum of informal economic endeavours.

However public space has many roles to play and many users to serve, including pedestrians, adjacent businesses and motorists. Local government is challenged by the competing realities that

the informal economy presents. On the one hand it offers economic opportunity, and it gives expression to the rights of people to create their own livelihood. On the other hand, it can stress local infrastructure and increase contestation, particularly in public space. At times these diverse functions compete. Different needs must be skilfully and fairly managed to use the resource of public space to maximum effect. This policy aims to support street trade within the overall economy of Johannesburg, manage the sharing of public space by different stakeholders, regulate competition for space between traders, and facilitate the provision of services and infrastructure.

The Johannesburg Growth and Development Strategy (GDS) affirms the City's commitment to developmental local government and is based on the following six (6) principles:

- Proactive absorption of the poor
- Balanced and shared growth
- Facilitated social security and mobility
- Settlement restructuring
- Sustainability and environmental justice
- Innovative governance solutions

This policy is borne out of the need for a common approach towards informal trading within the City's jurisdiction and lays the foundation for informal trading in a manner that is both beneficial and acceptable for all stakeholders.

## **2. Definitions, acronyms and abbreviations**

In this policy the English text prevails in the event of a conflict in meaning with other texts, unless the context indicates otherwise.

Authorised informal trader	A registered informal trader who is granted a trading permit by the municipality, as defined in this policy.
Authorised Official	(a) An official of the Council who has been authorised by it to administer, implement and enforce the provisions of this policy;

	<p>(b) A traffic officer appointed in terms of Section 3A of the National Road Traffic Act, 1996 [Act 93 of 1996];</p> <p>(c) A member of the police service, as defined in terms of Section 1 of the South African Police Service Act, 1995 [Act 68 of 1995]; or</p> <p>(d) A peace officer, contemplated in terms of Section 334 of the Criminal Procedure Act, 1977 [Act 51 of 1977];</p>
Businesses Act	The Businesses Act, No. 71 of 1991 including any regulations issued thereunder, and amended in 1993.
City	The City of Johannesburg.
DED	The City of Johannesburg’s Department of Economic Development that is the custodian of this policy.
DEH	The Department of Environmental Health of the City of Johannesburg and includes any successor in title or function.
Demarcated trading area	An area designated for informal trading pursuant to the designation process prescribed by and/or in terms of Businesses Act 71 of 1991.
Dependant	“Dependant” means, in addition to its ordinary meaning, the spouse of a registered trader, the partner of a registered trader in a civil union as defined in the Civil Union Act, 2006 (Act 17 of 2006), any person married to a registered trader in accordance with the indigenous law ordinarily adhered to by same and the partner of a registered trader who either lives or has lived with same in a relationship appearing to be a marriage. The definition also includes children who are of working age and for the purposes of

	the policy The Dependent is a person prepared to continue as a Trader)
GDS	Growth and Development Strategy 2040.
Historically Disadvantaged Individual	A South African Citizen who is a black person, a woman and/or has a disability.
Household	A household is a singular person or group of people that are biologically or legally related to one another and live together."
IDP Integrated Development Plan	An Integrated Development Plan is the overarching plan for an area that provides an overall framework for development. It aims to coordinate the work of all local and other spheres of government in a coherent plan to improve the quality of life for all the people living in an area. (these plans are reviewed annually)
Illegal Goods	Goods that are illegal to sell or buy (including counterfeit goods) as defined in the Counterfeit Goods Act 37 of 1997.
Informal Trader	Means any person that carries on a business as a street vendor, hawker and include an employee of such person and for the purpose of this policy, includes any person who trades in a public space, not registered or incorporated in terms of the corporate laws of South Africa.
Informal Traders Forum (ITF)	Municipal trader forum as defined by this policy, supported by the municipality, chaired by an independent facilitator, where informal trader organisations gather regularly to elect their representatives, debate the sector's own issues, deliberate on the sector's policy and strategic positions, to be presented strategically in the Informal Trading Stakeholders Committee.

Informal Trading	<p>Trading in legal goods and/or services by individuals and/or groups in locations designated for informal trading and which requires little more than the actual goods and/or services to commence.</p> <p>This definition expressly excludes criminal and/or unlawful activities.</p> <p>Trading in private residences, such as spaza shops, shebeens, taverns, and the like, already subject to regulation under other policies and procedures of the City, are excluded from this policy.</p>
Informal Trading Unit	A dedicated unit established in DED in the City of Johannesburg, to govern and manage informal trading in the city, as defined by this policy.
Informal Trading Stakeholders Committee	Committee that includes representatives from the City, traders, business and civil society, to work alongside the City of Johannesburg to determine policy and management issues pertaining to informal trading in Johannesburg - as defined by this policy.
JMPD	Johannesburg Metro Police Department.
JPC	City of Joburg Property Company SOC Ltd
JRA	Johannesburg Roads Agency of the City of Johannesburg.
Law Enforcement	The activity of ensuring that the laws of an area/country are complied with.
Market	A consolidated trading area that is demarcated and designated as such by the municipality, and managed in a coordinated manner.

MOE	Municipal owned entities as envisaged in terms of the Local Government: Municipal Systems Act 32 of 2000.
Permit (Trading Permit)	A permit to trade granted by the Municipality to registered traders, following processes and conditions defined in this policy.
Permit-holder	An Informal Trader who has been granted a trading permit by the Municipality to conduct informal trading in a specific trading area, for a trading fee paid by the trader, as defined in this policy.
Precinct	A spatially demarcated and defined area within a larger spatial area, consisting of a number of street blocks, properties and urban functions.
Precinct Plan	A precinct plan is a map at an area level, presenting detailed plans that are aligned with IDP and SDF, in the context of the existing built environment, land uses, activities and transport at that area level.
Public Place	Includes a public road, parking area, square, park, recreation ground, sports ground, sanitary lane, open space, unused or vacant municipal land or cemetery provided, reserved or set apart for use by or dedicated to the public and public transportation operated by service providers for the City, but does not include public land that has been leased by the City.
Register of Informal Traders	The Register of Informal trader is a list of traders who have applied for registration as informal traders in the city of Johannesburg, as defined by this policy. The Register is a public document accessible to all.

Registrar	The Registrar of Informal Traders appointed by the City within the Informal Trading Division in the City of Johannesburg, in charge of managing the Register of Informal Traders
Registration	A process by which candidates apply to be on the Register for Informal Traders in the City of Johannesburg. Registered informal traders may apply for a trading permit, through which they are allocated a trading site and area to trade, for a trading fee.
Spatial Development Framework, Strategic Area Framework, Precinct Plan or Urban Development Framework”	A spatial development policy at a particular spatial scale which provides guidance on the urban development, management of- and investment- into an area.”
Special events	Includes, but is not limited to, sports events, night markets, flea markets, bazaars, traditional events, fundraising events, cultural events, music festivals, promotional events and religious events.
Street Trader	An informal trader selling in streets, lanes, sidewalk, footpath, pavement, or any other public open or publicly accessible space.”
Street Trading	The selling and/or offering for sale of goods or supplying and/or offering of services for reward by an Informal Trader, street vendor, pedlar or hawker in a public place, but does not include the sale of newspapers only.
Street Trading Sites/Stands	Trading areas and/or trading stands provided by the City of Johannesburg in areas determined and approved by the City of Johannesburg Council.

Trading Area	An area designated as such in terms of this policy for informal trading pursuant to the designation process prescribed by and/or in terms of the Business Act 71 of 1991.
Street Trading Plan	A map (revised every 5 years) of all areas in the city identified for authorised street trading, with the number of sites open for trading as defined in this policy.

### 3. Policy Vision

Johannesburg will continue to lead as South Africa's primary business city, a dynamic centre of production, innovation, trade, finance and services. This will be a city of opportunity where the benefits of balanced economic growth will be shared in a way that enables all residents to gain access to the ladder of prosperity and where the poor, vulnerable and excluded will be supported out of poverty to realize upward social mobility. The result will be a more equitable city, very different from the divided city of the past. In this working city for all, everyone will be able to enjoy decent accommodation, excellent services, the highest standards of health and safety, access to participatory governance and quality community life in sustainable neighbourhoods and vibrant urban spaces.

This policy's vision is to create a well-functioning informal trading sector which addresses the needs of its stakeholders and is effectively integrated into the economic, spatial and social development goals of the City.

### 4. Policy Mission

In order to create opportunities for the informal trading sector to share in the benefits of economic growth, the City will, through a developmental approach, enable access to livelihoods, jobs and entrepreneurial opportunities within the informal trading sector. The "Policy Mission" envisages providing a stable and predictable regulatory and management environment. Such an environment will be one with uniform laws for all.

## 5. Policy Objectives

The policy is consistent with the objectives for a fair, just and sustainable economy that are captured in the City's Growth and Development Strategy and its Inner-City Transformation Roadmap. This policy expresses government's commitment to implementing a legitimate regulatory framework for this dynamic sector and seeks to:

- a) define an integrated and holistic approach to informal trading for all of the City's departments and Municipal owned entities (MOEs);
- b) clarify the City's position on and approach to informal trading to all relevant and interested stakeholders;
- c) form the basis for the review and revision of by-laws that regulate informal trading within the jurisdictional area of the City;
- d) provide a framework for the development and resourcing of informal trading and Informal Traders;
- e) outline an approach towards the planning and management of informal trading;
- f) establish a framework for the monitoring and evaluation of informal trading; and
- g) Establish a policy framework for law enforcement regarding informal trade and -traders.

## 6. Policy scope

The Policy will therefore be applicable to all areas within the CoJ municipal boundaries and that no area, unless specifically mentioned herein or in official CoJ communication subsequent to this Policy, shall be exempted: This Policy should be read in conjunction with other City Policies/Plans e.g. Spatial Plans, Transportation Plans, The IDP/SDF, The Inner City Walkable Network etc

- a) Seasonal traders, i.e. traders who respond to seasonal or once-off or short-term trading opportunities;
- b) Trading on or alongside pedestrian malls and walkways;
- c) Trading on or alongside public roads (if permitted pursuant to Regulation 322 of the National Road Traffic Act: Regulations, 2000);
- d) Public markets, i.e. markets that operate on public land, such as flea and craft markets;

- e) Trading in public open spaces;
- f) Trading at special events.
- g) Trading on private land and City owned property leased to 3rd parties is exempted unless it (trading) constitutes illegal land invasions, illegal land use as per the Town Planning Scheme, 2018, or, is deemed as causing hazards to the general public environment / surrounding areas.

## **7. Principles underpinning the policy**

Supporting informal trade to realise its productive potential in Johannesburg, implicates the mandates and work of various units of the City of Johannesburg. The range of principles that will be applied in the efforts of these units to support informal trade is outlined below.

### **7.1. Economic Principles**

Informal trading is largely regulated at local government level by municipal by-laws and -policies. Local government is empowered the regulation of informal trade through municipal by-laws and relevant supplementary policies. It is envisaged that certain sectors within the informal trade, preference is to be given to South African citizens first. Productive growth in the Informal Trading sector will be facilitated through the following:

- a) Identifying and reinforcing high trading areas, by linking new and existing trading areas to create viable hubs of business activity;
- b) Providing for a retail sector economic forum where informal traders and formal retail operators can jointly discuss and find solutions and opportunities for building the retail economy of Johannesburg;
- c) Examine the opportunities for informal trade and micro business to increase their market share in the retail sector;
- d) Building relationships along the supply chain to increase efficiencies in the sector
- e) Promoting the deepening of informal and micro business along the supply chain - for example in the areas of manufacturing of goods and of value add to goods to strengthen the reach and sustainability of the informal sector.

- f) Providing business support by providing adequate infrastructure and services to dense trading areas, and by linking traders to a range of capacity building and business support services that cater for the different types and levels of traders;
- g) Linking traders to SETA and ABET training programmes available through the state;
- h) The optimal utilisation of City resources by balancing good economic return in the use of municipal fixed assets and consolidating its social value in terms of contributing to reduce unemployment and foster trader households' livelihoods.

## **7.2. Social Principles**

Many of those employed in informal trade live in informal settlements and have poor access to adequate services. Many are women, youth, migrants and disabled persons. This policy seeks to reduce inequity through the provision of services and through active programmes to support vulnerable populations to access opportunity and dignity through informal trade. The right to human dignity (which is granted to “everyone”) also protects foreign nationals’ right to participate in informal trade. In essence, municipalities cannot prevent foreign nationals from participating in informal trade (as long as foreign traders follow and comply with the laws of the country).

Equity within the City to create a dignified trading area will be promoted through:

- a) Spreading public spending in an equitable manner throughout the area, with emphasis on the poorer parts of the City lagging behind in public sector investment; and on the parts in which dense and diversified uses of public space require high levels of investment, maintenance and management services;
- b) Viewing the location of public sector investment as an opportunity for improving the general environment in historically disadvantaged areas within the region, and as an opportunity for integrating communities that historically have been spatially separated; and
- c) Providing basic municipal services and urban management to areas where public health and public safety is at risk.
- d) Building social cohesion in the sector through forums that offer all economic workers (informal traders, informal labourers, waste reclaimers and others) the opportunity to share experience and jointly find solutions to issues that confront their work lives.
- e) Upholding the rights of internal and foreign migrants to trade in the informal sector.

### 7.3. Spatial Principles

A developmental approach to the informal economy implies integrating plans and targets into each level of spatial and economic planning in the City. Therefore:

- a) Opportunities for informal trade shall be proactively accommodated in spatial and development plans. The infrastructural needs and the sustainable development of the sector as well as the relationship between trade and other uses and users of space will be included in strategic and area-based plans as well as in the annual and medium-term budgeting cycle.
- b) These needs shall form part of existing city-wide spatial and strategic hierarchy of documents, as such:
  - i. The Integrated Development Plan shall guide informal trade (and other elements of the informal sector) and how it relates to other departments and functions within the city.
  - ii. The Spatial Development Framework shall guide specifics about different kinds of informal trading and what space could be set aside for this function. This shall reflect the Street trading plan for the city, as defined in this policy, and shall be updated according to the usual cycle.
  - iii. The Regional Spatial Development Frameworks and Precinct Plans shall offer guidelines of where various types of street trading could be allowed.
- c) Spatial planning requirements for the accommodation of informal trading will also apply to plans developed by private property developers, especially if a new development affects informal traders;
- d) This Policy shall become a key consideration in the drafting and development of spatial policies.
- e) The City's spatial planning can adopt a more considered approach in urban design and management to allow for trade and micro business in previously neglected economic nodes;
- f) In the establishment of new townships, the City will seek to ensure that sidewalks are wide enough to accommodate informal traders as well as pedestrian traffic.

## **7.4. Stakeholder Engagement**

### **7.4.1. Principles**

Stakeholder engagement and information management will be governed by the following principles:

- a) **Communication:** Calling for meetings sufficiently in advance and on a regular basis, with communication of draft meeting agenda and former meetings minutes sufficiently in advance; Communicating widely, accessibly and using different media (print, electronic, radio, television) to improve the reach of information to the sector stakeholders; Communicating through and with relevant representative bodies and federations to ensure as many appropriate people as possible are reached.”
- b) **Equity and Inclusion:** including all relevant stakeholders at the appropriate level, with different degrees of engagement (from information to consultation) as appropriate.
- c) **Transparency:** Make public information publicly accessible, online as well as in offices, possibly through the development of relevant websites and software. This may include policy and policy-related documents, meetings and workshop calendar and other announcements: but chiefly apply to any trader registration lists, which should be made publicly accessible as a major step against corruption.
- d) **Empowerment:** in recognition that the informal trading sector is often fragmented, a particular effort is to be developed by the City to support and nurture street trader organisations and their ability to participate in the policy and management of street trading.

### **7.4.2. The establishment of an Informal Trading Stakeholders Committee**

- a) The Informal Trading Unit shall establish an Informal Trading Stakeholders Committee for consultation, recommendations and inputs into policy matters, trading plans and trading management, as well as resolution of issues that may arise, relating to informal trading throughout the City of Johannesburg.
- b) The Informal Trading Stakeholders Committee shall, inter alia,
  - i. Monitor and frame the conduct of informal traders surveys (at least every five years)

- ii. Make recommendations for the Street trading plan, reviewed at least every 5 years, and in particular identify potentially new informal trading sites and areas, together with the Informal Trading Unit;
  - iii. Make recommendations on precinct or area-based trading contexts, conditions, rules and opportunities, rental fees.
  - iv. Review trading permit applications, together with the Informal Trading Unit and monitor the trading sites allocation process, per precinct or area, in accordance with this policy;
  - v. Consider and mediate conflicts between informal traders and local authorities, between informal traders themselves or between informal traders and other users of the public space;
  - vi. Pilot precinct-based management plans and models, fundraise for the development or maintenance of local infrastructures or the provision of additional services;
  - vii. Participate in policy and policy-related development on issues of informal trading; in the monitoring and in the review of such policies and regulations.
  - viii. Engage with formal retailers in the development of a retail strategy for the city and for local areas that includes formal and informal retail activity
- c) The Informal Trading Stakeholder Committee shall comprise of duly appointed representatives from all relevant stakeholders: municipal officials (Informal Trading Registrar and relevant officials from the Informal Trading Unit; officials from relevant departments including Planning, JMPD, etc); informal traders; and business and civil society organisations (that may include: local civics and residents associations, academics, NGOs, etc.).
  - d) The Informal Trading Stakeholder Committee shall be chaired by the relevant official from DED or the Informal Trading Unit.
  - e) The structure of the Informal Trading Stakeholders Committee shall guarantee a strong voice for traders representatives, who should constitute no less than 40% of the members of this committee.
  - f) The Informal Trading Stakeholder Committee shall meet at least once a quarter, in meetings planned in advance. The agenda for the meeting and minutes of the previous meeting shall be communicated by the Informal Trading Unit to all members of the committee at least one week prior to the date of the meeting.
  - g) The Informal Trading Stakeholder Committee shall determine its own terms of reference, based on the principles stated above.

- h) Depending on capacity and relevance, Precinct Trading Stakeholder Committees shall be established to better manage informal trading at a precinct level, especially in dense urban areas such as the Johannesburg inner city. They should follow the same principles as the Informal Trading Stakeholders committee, in terms of structure, minimum representation of informal traders, etc, and regularly report to the Informal Trading Stakeholders Committee. They could be delegated management tasks and decisions that are more relevantly made at a precinct level, e.g. providing input into the Street trading plan, making recommendations on the informal trading holding capacity of the precinct, for the local trading fee, for allocating trading sites in a way that is appropriate to the overall trading needs of the precinct.

## 8. Regulatory Framework

The following key legislative imperatives provide a mandate to the City for managing, supporting and regulating activities within the Informal Trading sector:

Act	Relevance to Informal Trading
Constitution of the Republic of South Africa Act 108 of 1996	<p>Section 22 provides, as part of the Bill of Rights, under “Freedom of trade, occupation and profession”, that: “Every citizen has the right to choose their trade, occupation or profession freely.” This freedom extends to informal trading. It also provides that: “The practice of a trade, occupation or profession may be regulated by law.”</p> <p>Section 36(1), under “Limitation of rights”, also provides that: “The rights contained in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including –</p>

	<p>(a) the nature of the right;</p> <p>(b) the importance of the purpose of the limitation;</p> <p>(c) the nature and extent of the limitation;</p> <p>(d) the relation between the limitation and its purpose;</p> <p>and</p> <p>(e) less restrictive means to achieve the purpose.”</p> <p>In the premises, the right of a citizen to choose a trade can be limited by law. In addition, the right to trade of Informal Traders must be considered and interpreted considering other citizens’ competing rights.</p>
<p>The Businesses Act 71 of 1991 (as amended)</p>	<p>The Act determines that, save for certain exceptions, a licence is required for: the sale or supply of perishable foodstuffs, the provision of certain types of health facilities or entertainment, and hawking in meals or perishables foodstuffs.</p> <p>The Act also provides, in certain circumstances, for a local authority to act as a licensing authority and, in particular (in section 6A) to: (1) make by-laws regarding the supervision and control of the carrying on of the business of street vendor, pedlar or hawker; the restriction of carrying on of such business in certain places; the prohibition of the carrying on of such business in certain places; (2) to declare any place in its area of jurisdiction to be an area in which the carrying on of the business of a street vendor, pedlar or hawker may be restricted or prohibited; (3) to lease any verge as defined in the Road Traffic Act, 1989 to the owner or occupier of the contiguous land on the condition that such owner or occupier shall admit a specified number</p>

	of street vendors, pedlars or hawkers in stands or places on such verge designated by such owner or occupier; (4) to set apart and demarcate stands or areas for the purposes of the carrying on of the business of street vendor, pedlar or hawker owned or managed by it, or to reduce or disestablish such stand or area.
Promotion of Administrative Justice Act 3 of 2000	The Act gives effect to the right to administrative action that is lawful, reasonable and procedurally fair, as well as to the right to written reasons for administrative action.
The Health Act 61 of 2003: Regulations Governing General Hygiene Requirements for Food Premises and the Transport of Food (as published under Government Notice No. R. 638 of 22 June 2018)	The Act makes provision for promotion of the health of the inhabitants of the country. Regulation 3 provides for the issuing of a certificate of acceptability for premises where food is handled.
Meat Safety Act 40 of 2000	The Act inter alia provides for measures to promote meat safety and the safety of animal products.
Animals Protection Act 71 of 1962	The Act sets out the law relating to the prevention of cruelty to animals.
National Environmental Management Act 107 of 1998	The Act inter alia provides for co-operative, environmental governance by establishing principles for decision-making on matters affecting the environment. Included in the Act is the duty to care for the environment and remedying of environmental damage.

The National Building Regulations and Building Standards Act 103 of 1977	The Act provides for the promotion of uniformity in the law relating to the erection of buildings and for the prescribing of building standards.
City of Johannesburg Metropolitan Municipality Public Open Spaces By laws.	“ The purpose of the By-Law is to provide the legal and administrative framework for the development and management of public open space in Johannesburg”
National Road Traffic Act 93 of 1996 and National Road Traffic Regulations, 2000, as amended.	Regulation 322 prohibits trading on or alongside public roads in urban areas unless authorised by the City.
Counterfeit Goods Act 37 of 1997	The Act introduces measures aimed against the trade of counterfeit goods, including searching for, seizing and removing same.
Environment Conservation Act 73 of 1989 and Noise Control Regulations, 1999 (Gauteng Provincial Gazette no 75 dated 20 August 1999)	The Act provides for the effective protection and controlled utilisation of the environment. The Regulations provide a uniform minimum standard for noise regulation in the Province.
Refugees Act No. 30 of 1998, S27 (a-f).	<p>A refugee-(a) is entitled to a formal written recognition of refugee status in the prescribed form;</p> <p>(b) enjoys full legal protection, which includes the rights set out in Chapter 2 of the Constitution and the right to remain in the Republic in accordance with the provisions of this Act;</p> <p>(c) is entitled to apply for an immigration permit in terms of the Aliens Control Act, 199 1, after five years’ continuous residence in the Republic from the date 45</p>

	<p>on which he or she was granted asylum, if the Standing Committee certifies that he or she will remain a refugee indefinitely;</p> <p>(d) is entitled to an identity document referred to in section 30;</p> <p>(e) is entitled to a South African travel document on application as contemplated in section 31;</p> <p>(f) is entitled to seek employment; and</p>
Immigration Act 13 of 2002, as amended.	The Act inter alia provides for the regulation of the residence, right to work or the right to conduct business of foreigners in the country.
Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000	The Act aims to prevent and prohibits unfair discrimination and harassment; aims to promote equality and eliminate unfair discrimination and to prevent and prohibits hate speech.
Local Government: Municipal Finance Management Act 56 of 2003	The Act aims to secure sound and sustainable management of the financial affairs of municipalities and other institutions in the local sphere of government and to establish treasury norms and standards for the local sphere of government.
Local Government: Municipal Systems Act 32 of 2000	The Act inter alia provides for the social and economic upliftment of local communities, universal access to essential services that are affordable to all, the municipality working in partnership with the local community, community participation, an enabling framework for local government, human resource development, empowering the poor and overall social

	and economic upliftment of communities in harmony with their local natural environment.
Prevention and Combating of Corrupt Activities Act 12 of 2004	The Act inter alia provides for the strengthening of measures to prevent and combat corruption and corrupt activities.
Conventional Penalties Act 15 of 1962	The Act provides for the enforceability of penalty stipulations, including stipulations based on pre-estimates of damage, and of forfeiture clauses.
Arbitration Act 42 of 1965	The Act provides for the settlement of disputes by arbitration tribunals in terms of written arbitration agreements and for the enforcement of the awards of such arbitration tribunals.
State Information Technology Agency Act 88 of 1998	This Act provides for the establishment of the State Information Technology Agency to provide information technology, information systems and related services to, or on behalf of, participating departments and organs of state and in regard to these services, act as an agent for the South African Government.
Promotion of Access to Information Act 2 of 2000	The Act gives effect to the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights.
The Tobacco Products Control Act 83 of 1993, as amended.	The Act is the primary tobacco control law of South Africa. It governs, among other things, smoking restrictions; tobacco advertising, promotion and sponsorship; and packaging and labelling.

Foodstuffs, Cosmetics and Disinfectant Act 54 of 1972.	Regulations Governing General Hygiene Requirements for Food Premises and the Transport of Food (as published under Government Notice No. R. 638 of 22 June 2018).
The Disaster Management Act 57 of 2002 intends to provide for:	<ul style="list-style-type: none"> <li>•an integrated and co-ordinated disaster management policy that focuses on preventing or reducing the risk of disasters, mitigating the severity of disasters, emergency preparedness, rapid and effective response to disasters and post-disaster recovery;</li> <li>•the establishment of national, provincial and municipal disaster management centres;</li> <li>•disaster management volunteers; and</li> <li>•matters incidental thereto.</li> </ul>
City of Johannesburg Metropolitan Municipality Informal Trading By-Laws, Local Authority Notice 328, 2012.	<p>The By-Law aims at creating opportunities for the Informal Trading sector to share in the benefits of, and further contribute to, the City's economic growth.</p> <p>The Purpose of the By-Law is to regulate Informal Trading within the jurisdictional area of the City in a manner that recognises and enhances the City's constitutional and other statutory obligations.</p>
Disaster Management Act: Covid 19 Regulations- Guidelines	<p>Mandatory Protocols when in a public space:</p> <p>34.1 For the purposes of these Regulations, a “Face Mask” means a cloth face mask or homemade item to cover the nose and mouth.</p>

	<p>2. The wearing of a mask is mandatory for every person when in a public space, excluding a child under the age of 6 years,</p> <p>6 c, take steps to ensure that persons queuing inside or outside the premises are able to maintain a distance of one and half meters.</p> <p>...on the basis of providing for social distance of one and half meters from each other:</p>
<ul style="list-style-type: none"> <li>• Property Valuers Profession Act 47 2000</li> </ul>	<ul style="list-style-type: none"> <li>• To provide for the establishment of a juristic person to be known as the South African Council for the Property Valuers Profession;</li> <li>• To provide for the registration of professionals, candidates and specified categories in the property valuation profession;</li> <li>• To provide for the regulation of the relationship between the South African Council for the Property Valuers Profession and the Council for the Built Environment; and</li> <li>• To provide for matters connected therewith.</li> </ul>

**9. Informal Trading permits**

In terms of this policy, any person wishing to carry on business as an Informal Trader within the City’s jurisdiction has to apply for and be registered as an Informal Trader with the City. Such registration has to be renewed annually. In addition, a trading permit issued by the City is required to conduct informal trading within its jurisdiction.

**9.1. Qualifying criteria for an informal trading permit**

In order to qualify for an informal trading permit, an applicant must:

- a) be a South African citizen, or be authorized to carry on business as an Informal Trader in terms of the Immigration Act 13 of 2002;
- b) Be or intend to become an Informal Trader as defined above;
- c) be or become and remain registered as an Informal Trader for the duration of said trading permit;
- d) not hold a valid trading permit, or surrender same;
- e) at all times act lawfully and adhere to this policy and all relevant regulations and directions by the authorities; and
- f) Apply for a trading permit to trade in a suitable and demarcated space and for a suitable business.
- g) Show willingness to pay rent as determined by the City.

## 9.2. Application process:

The application process consists of two phases:

- Registration on the Informal Trade City register, and
  - Permit application which specifies the area, trading fees and conditions of authorisation to trade.
- a) Trading permit registration and application forms can be collected from the City's Informal Trading Unit, all public libraries or downloaded from the City's website.
  - b) The following supporting documents must accompany the application:
    - i. certified copy of the applicant's identity document, card, passport, or other valid identity document
    - ii. in the case of foreigners, documentary proof of authorisation to carry on business as an Informal Trader that has been issued by the immigration authorities;
    - iii. two identity document-format photographs of the applicant;
    - iv. An undertaking by the applicant that he or she has no other means of livelihood.
  - c) The completed application and supporting documents have to be submitted to the City's Informal Trading Unit for processing.
  - d) The completed application and supporting documents then shall follow due process:
    - i. An acknowledgement of receipt letter is issued to the applicant.

- ii. The Informal Trader's particulars are captured on the City's register of Informal Traders and a registration number allocated for each Informal Trader.
  - iii. The Registrar will evaluate the application for a trading permit, applying the considerations set out below, present it to the Informal Trading Stakeholders Committee for recommendations, and make a determination on the application.
- e) If the application for a trading permit is approved,
- i. The relevant information is uploaded in the Register of Informal Traders;
  - ii. A trading permit is issued to the Informal Trader, that includes the following information:
    - the name and identity number of the registered trader;
    - the registration number allocated to such trader;
    - the location area in which the trading permit was approved
    - The trading site that is allocated for the trader
    - The nature of the goods/ services that the trader is allowed to sell
    - Any other condition stipulated by other regulations (e.g. precinct rules as agreed in the precinct trading stakeholders committee).
  - iii. The informal trader is issued with the level of the rental fee s/he will be expected to pay on a monthly basis.
- f) If an application is rejected,
- i. The City notifies the applicant including the reasons for rejecting the permit application.
  - ii. The applicant has the right to appeal the decision;
- g) The City is entitled to charge a fee for application for registration and/or trading permit.

### **9.3. Approval of informal trading permit applications**

The following considerations apply to applications for informal trading permits:

- a) The availability of trading space in the informal trading area applied for;
- b) The applicant's ability to meet the trading hours for the relevant trading area, as determined by the City in consultation with the Informal Trading Stakeholders Committee (or potentially the Precinct Trading Stakeholders Committee);
- c) The suitability of the trading space applied for, considering the nature of the business the applicant intends conducting there and the nature of the existing businesses in, or near to, that

- trading area, as identified by the City in its area based plans (in consultation with the Informal Trading Stakeholders Committee or potentially the Precinct Trading Stakeholders Committee)
- d) All other required authorisations relevant for the Informal Trader's business activities (e.g. a business license and certificate of acceptability for the sale of foodstuffs) must be obtained.
  - e) In addition to these key considerations, a number of preferences may be chosen by the relevant committee, to allocate trading sites to applicants in specific areas:
    - i. Preference may be given to those who have applied earliest; and/or
    - ii. Preference may be given to applicants who do not share a household with an existing registered trader;
    - iii. Preference may be given to existing traders having a current trading permit but requesting a different trading space, precinct or stall;
    - iv. Preference may be given to traders who have not had in the past their trading permit revoked or suspended.
    - v. Whether the applicant has contravened this policy or had a trading permit revoked.
    - vi. Only one trading permit will be issued per Informal Trader at any given time.
  - f) While section (c) and (e) provide a level of flexibility in the definition of local preferences affecting the trading site allocation processes, this process shall be as transparent as possible, and decisions of allocation systematically updated on the Register of Informal traders, as a publicly accessible register. This systematic update and its public accessibility are the responsibility of the Registrar.

#### **9.4. Rental and lease agreement**

- a) City of Joburg Property Company SOC Ltd (JPC) as a City agent mandated to manage its property portfolio will administer lease agreements and rental collection.
- b) The right to use, control or manage capital asset shall be limited to informal trading areas demarcated by DED Informal Trading Unit.
- c) A trading site/stall rental fee will be determined by the designated Valuer, appointed in terms of the Property Valuers Profession Act 47 2000, valuation report shall be valid for a period of 12 months.

- d) The Accounting Officer to dispense with the official procurement processes established by the SCM policy as it is impractical to follow the official procurement processes to allow JPC to enter into leases.
- e) JPC shall enter into a lease agreement with qualifying trader allocated the shop/stall by DED.
- f) The lease agreement shall be valid for a period of 3 (three) years, escalating at 8% per annum.
- g) JPC CEO or her nominee will sign all documentation to give effect to the agreement in terms of hereof and in terms of the Supply Chain Management Policy for Land (SCMPL) of the City and any other applicable legislations.
- h) The City, through JPC reserves the right to apply tariff differentiation based on:
  - i. The location of the trading area or site (some might be more lucrative than others)
  - ii. The size of the trading site allocated to the trader (there could be different types of trading sites and stalls allocated, to cater for different affordability levels for various informal traders)
  - iii. The nature and quality of the infrastructures and services provided to the trading area or site
- ⇒ It should be kept in mind that informal trading remains in majority a survival activity, and it should be accepted that the trading fee remains reasonable, affordable and conducive for informal traders' activities.
- j) Precinct Trading Stakeholders Committees in particular are well placed to advice on such reasonable and locally adapted rental fee, and if they are in existence should be consulted for the definition of precinct trading fees.

## **9.5. General Conditions**

- a) First-time applicants for registration will have to attend an information session on the informal trading policy and by-law within six (6) weeks after registration.
- b) The agreements/licenses etc. between the City and the traders shall be considered as binding contracts on both parties.
- c) Traders are protected by the Consumer Protection Act, which means that the onus is on the City to ensure that traders understand the full meaning of the documents being signed. All agreements/licenses etc. must be in clear understandable language.

- d) In high demand zones, alternative allocation models may be piloted to enhance the trading mix and provide for new entrants.
- e) There must be sufficient product diversity in an area to ensure the needs of consumers are appropriately met as well as ensuring sufficient market share for traders for them to operate profitably. To this end the City shall have the right to review or withdraw a trading permit if such conditions are not met, in consultation with the Informal Trading Stakeholders committee (possibly at a precinct or area level). However, such decisions must be based on market surveys and appropriate sector knowledge and information.
- f) No permanent or semi-permanent structures are to be erected by the trader/occupant of the stall.
- g) Trader shall be liable for all municipal services levied or payable in respect of their individual stall. No rates will be charged.
- h) Trader will not be permitted to sublet the stall/shop
- i) Trader will trade at the designated space as allocated.
- j) Trader to trade with the product that conforms to product specification within the facility.
- k) Drugs, alcohol, fake products not allowed in the facility or sold.
- l) Stall/Shop will not be transferable, the Trader must hand back the Stall/Shop to DED if no longer required for trading.
- m) Stall/Shop not transferable in the event of the Trader is deceased prior to expiry of the lease and in this instance the stall will be handed back to DED.
- n) The City and its authorised representatives/agents shall have 24 hour's unrestricted access to the stall/shop, electricity, water and other Municipal services situated on the property.

## **9.6. Special events**

- a) Special events include, sporting fixtures, concerts, festivals and fairs, religious celebrations, cultural holidays and national state events. These events are by their nature temporary and arrangements will depend upon the type of event and the geographical area in which it is taking place.
- b) Included in the definition of special events are temporary markets commonly referred to as flea markets, bargain markets, craft markets, artefact- and curio markets as well as tourist markets.

- c) The City may permit or prohibit informal trading for special events, on such terms and conditions as deems fit, notwithstanding any trading permits issued in respect of the relevant trading area.
- d) It is the responsibility of all special event organizers or operators affected by this policy, to obtain the City's general permission for informal trading within the event footprint.
- e) The City's permission is subject to the event organiser managing and being wholly responsible for all informal trade within the entire event footprint.
- f) A special procedure will apply to the organisers or operators of special events for such limited period permissions.
- g) The City will encourage event organisers to accommodate Informal Traders and where feasible allow informal trading to take place around the event footprint.

#### **9.7. Transfer of trading permits**

- a) A trading permit may, with the City's written approval and subject to registration of the new trading permit holder, be permanently transferred to a dependant of the registered informal trader, or to an assistant acting on behalf of such dependant if the trading permit holder dies or becomes permanently unfit (upon medical proof thereof) to continue trading and undue hardship would otherwise result for the trading permit holder's dependant(s).
- b) A trading permit may be temporarily transferred for the required period and, with the City's written approval, to a dependant of the registered informal trader, or to an assistant acting on behalf of such dependant, if the registered trader:
  - i. Is temporarily unfit (upon medical proof thereof) to continue trading; or
  - ii. is unable to carry on trading for an extended period due to an obligation to fulfil religious, traditional or cultural duties.
- c) Such transfer becomes effective upon the cancellation of the Informal Trader's trading permit and issuing of a replacement trading permit to the said dependent or dependent's assistant.
- d) Save as set out above, neither a trading permit nor the right to trade may be transferred by way of lease or sale or any other way.

## **9.8. Cancellation and Suspension of informal trading permits**

- a) The City reserves the right to cancel or suspend a trading permit in the event of a registered Informal Trader:
- i. Requesting same;
  - ii. Dying and the trading permit not being transferred within a reasonable period as above;
  - iii. Becoming temporarily or permanently unfit, the trading permit not being transferred as above and the registered Informal Trader not resuming trading within a reasonable period;
  - iv. breaching any provision of the trading permit, this policy or the law pertaining thereto;
  - v. being convicted of any offence relating to its business;
  - vi. wilfully providing incorrect information when required to provide the City, its employees or agents with information;
  - vii. failing to renew his/her registration annually;
  - viii. subletting or making available or selling a trading bay or any part thereof to a third party;
  - ix. Falling in arrears with any money due and payable to the City for sixty (60) days or more;
  - x. Failing to comply with the Informal Trading by-law of the City.
- b) The City shall give such Informal Trader at least 14 (fourteen) days written notice before the suspension or cancellation takes effect.
- c) The City shall comply with the Promotion of Administrative Justice Act 3 of 2000.

## **10. Trading areas**

### **10.1. Demarcation of trading areas**

- a) Section 6 (A)(4) of the Businesses Act provides for the City to demarcate stands or to disestablish stands for the purpose of the carrying on of the business of street vendors, pedlars or hawkers on property owned or managed by the City.
- b) The City will consider the entire jurisdictional area of the municipality for demarcation to ensure that all informal trading spaces are formalized as envisaged in the Businesses Act.
- c) Designation of trading areas shall consider the characteristics of the specific economic node in respect of its proximity to public transport facilities, public open spaces, and areas with high

levels of pedestrian traffic; the proximity of informal trading to formal trading; high levels of vehicular traffic.

## **10.2. Development of Street Trading Plans**

A broad process that defines the spatial conditions and suitability for informal trade areas in all parts of the City should be developed. This aspect of strategic planning should be driven by the Department of Development Planning in consultation with DED and relevant Departments and MOEs, so that they are fully integrated in all the development plans, area-based plan and precinct plan developed in the City. These plans will be developed in consultation with the Informal Trading Stakeholder Committee or the relevant Precinct Trading Stakeholder Committee, to adequately and regularly assess needs, manage the activity and integrate it with other uses of space.

- a) Street trading plans should be guided by inclusive economic, social and spatial development principles envisaged in this policy.
- b) They should be reviewed regularly, at least every 5 years
- c) To develop the plan, a survey of street traders within the area should be conducted to act as a fundamental basis to inform the plan. The conditions and framing of the survey should be developed by the Informal Trading Stakeholders Committee.
- d) The plan should ensure that all informal traders surveyed apply for registration on the Register of Informal Traders, and that all registered traders are accommodated in the Street Trading Plan
- e) A minimum number of suitable street trading areas and sites should be opened up in order to accommodate as many traders as possible. In particular, there should be an identification of which areas across the city, currently restricted or prohibited for trading, could be opened up.
- f) The Precinct and Informal Trading Stakeholders Committees would make recommendations on which areas could be developed for trading, under which conditions, and with how many trading sites.
- g) Such recommendations would need to consider, and balance,
  - i. the need to demarcate trading sites that suit the business activity of the traders;
  - ii. the principle of minimal relocation or displacement of existing traders;

- iii. the need to protect and respect other uses and users of public spaces (pedestrians, commuters, formal business owners, etc.)
- h) Demarcation of informal trading areas, and potential prohibition of specific existing trading areas, would be conducted by the Informal Trading Division in accordance to the Businesses Act (Section 6A).
- i) The Street Trading Plan shall be consolidated and integrated into municipal existing plans such as the IDP, SDF and precinct plans, within the Department of Planning. It also needs to be incorporated as part of the approved nodal review so that informal trade is also considered when thinking about mixed use, intensification of land use and densification. This will assist in bringing informal trade into areas from which it and the surrounding areas would benefit and which have not previously been considered.

## **11. Management of informal trading**

### **11.1. Establishment of a CoJ Informal Trading Task Team**

For the City to mainstream the informal sector generally (and informal trade in this instance) into its strategy, planning and implementation in all relevant departments, it is imperative that a task team be established for alignment of City plans and interventions that impact the informal sector. It is envisaged that the task of Informal trading monitoring will be allocated to a relevant Section 79 Committee of the City. In addition, an Informal Trading Task Team will be established.

- a) The Trading Task Team will be structured as follows:
  - i. This Informal Trading Task Team will be chaired by the City Manager.
  - ii. The Informal Trading Task team will gather senior operational representatives from each department and MOE active in matters relevant to the informal sector.
  - iii. The Informal Trading Task Team will meet monthly under the chairmanship of the City Manager, supported by the Executive Director: DED.
  - iv. Each department and entity will submit monthly progress reports against their business plans for informal sector activities to the Executive Director: DED via this committee.
  - v. This will be key forum for receiving reports on each department's activities in relation to the informal sector, monitoring progress and dealing with blockages and problems. It will

be the point where line departments share their individual progress reports and coordinate with each other on cross cutting projects and on programmes.

- b) The role and functions of the Trading Task Team will be as follows:
- i. Champion the mission of enhancing the productive contribution of the informal sector to the Johannesburg economy
  - ii. Monitor the mainstreaming of informal sector strategies and plans
  - iii. Ensure the alignment of plans of various departments and MOEs
  - iv. Provide a platform for departments to share information, knowledge and plans relating to the informal sector and to coordinate their intentions and activities
  - v. Monitor the roll out of interventions that impact the informal sector
  - vi. Alleviate blockages to decision-making and intervention
  - vii. Resolve differences of approach and conflicts of interest between City departments or entities in relation to informal sector interventions
  - viii. Direct high-level concerns and priorities to political leadership
  - ix. Report on the progress in raising the productive contribution of the informal sector to political leadership

## **11.2. Establishment of a dedicated Informal Trading Unit**

For the City to organize and develop the informal trading sector, it must establish an informal trading unit as the custodian of the City's informal trading policy.

- a) The unit will be established within the DED.
- b) The unit will ensure the implementation of this policy, facilitate its regular monitoring and evaluation, and develop support mechanisms to respond to traders' issues, reported by individual Informal Traders or via the Informal Trading Stakeholders Committee.
- c) The unit will report on the development of the sector quarterly to the Executive Director: DED.
- d) The unit will duly participate in the Informal Trading Stakeholder Committee, facilitate its meetings, follow up and report back to the Committee on its recommendations and decisions.
- e) The unit will develop and oversee a trading permit allocation and trading sites allocation policy for approval by the Informal Trading Stakeholders Committee and the Council

- f) The unit may appoint precinct-based officials, especially in specific areas of the city where the density of informal trading and the diversity of urban land uses is high and renders management complicated (such as the inner city).
- g) The unit will appoint a Registrar for the City who will control the applications for registration and trading permits, prepare them for recommendations by the Informal Trading Stakeholders Committee, and based on its recommendation, give or refuse approval of trading permits.
- h) The unit will ultimately be responsible, in conjunction with relevant units in the City, for collecting and managing trading rents paid by authorised informal traders.

### **11.3. Duties of the Registrar**

The duties of the Registrar will include, inter alia:

- a) Establish and maintain the Register of Informal Traders;
- b) Administer the registration and permit process comprising of the following:
  - i. the receipt of applications for registration and trading permit;
  - ii. the investigation of the feasibility of the application and the compilation of a report thereon;
  - iii. the submission of the application and the feasibility report to the Informal Trading Stakeholders Committee, which will give recommendations
  - iv. the approval or rejection of applications for registration and for trading permits
  - v. the issue of a confirmation to applicants, regarding their registration and the granting of their trading permit
- c) Updating the Register of Informal Trader on a regular basis, ensuring it is consistent and publicly accessible, for the sake of transparency and good management.

### **11.4. The Register of Informal Traders**

To achieve a comprehensive Register of Informal Traders, registration of all existing traders as they are currently operating should undertake city-wide with the intention of being as inclusive as possible. The registration of all traders should be conducted every five years, in a process approved by the Informal Trading Stakeholders Committee and driven by the Informal Trading Unit.

- a) The Register is managed by the Informal Trading Unit and must contain at a minimum:
  - i. the full name and surname of the Informal Trader;

- ii. a distinguishing registration number;
  - iii. the date of submission of the application for a trading permit, and the status of the trader's application (in process, rejected, accepted).
  - iv. the location where the Informal Trader has applied or is authorised to carry on business, and if authorised, the trading bay or market allocated to such Informal Trader;
  - v. a description of the goods and / or services that the Informal Trader concerned has applied for or may be authorized by the permit to sell or provide; and
  - vi. Any other information that may be required by additional regulation.
- b) The Register shall be publicly accessible - if possible available online so that each applicant and the community at large can see and track the status of applications for registration and permits: not only at an individual level, but also for the city as a whole and at the level of areas or precincts.

#### **11.5. Provision of infrastructure and services**

- a) The Informal Trading Unit is committed to provide basic infrastructure, service, maintenance and urban management to informal trading spaces.
- b) However, the level of such infrastructure and services is dependent on the availability of funding.
- c) The Informal Trading Unit, together with the Informal Trading Stakeholder Committee (and when relevant, the precinct trading stakeholder committees), might jointly define the level of infrastructural and service needs of specific trading areas, and look for joint ways of funding such provision.
- d) All trading areas will be defined and conceptualised within area-based plans that consider their location and their connection to other uses, to transport services and to facilities.

#### **11.6. Support to the facilitation of an independent Informal Trader Forum (ITF)**

- a) In recognition of the challenges in organising a sector in which survivalist activities prevail, in which workers are creating their employment and work on an individual basis, and in which part of the activity is still informal; and
- b) In order to facilitate meaningful engagement with other, often more resourced and organised, stakeholders in the Informal Trading Stakeholders Committee as defined by the Social

Principles described in this policy; and to work towards fair and democratic representation of traders in this forum;

- c) The municipality will endeavour to support the creation and facilitation of an independent Informal Trader Forum, where informal traders, their organisations and representatives may meet to discuss their issues, select their representatives, and consolidate their policy and strategic positions;
- d) Such support may take the form of the provision of an independent facilitator, remunerated by the municipality and endorsed by the Informal Trading Stakeholders Committee, to facilitate the ITF meetings; of the provision of venues and facilities for its meetings; and any other support that is deemed relevant by stakeholders.

## **12. Rights and Duties of Traders**

- a) The conduct of trading should be respected as a business
  - i. Every trader shall have the right to carry on the business of trading activities in accordance with the terms and conditions mentioned in the agreement with the City. As such traders should be recognised as legitimate contributors to the City's economy, conviviality and life and trading is a valid and important mode of income generation and should not be treated inferior or less than other livelihood generating activities.
  - ii. Where any area or space has been earmarked as a no vending or restricted trading area, no informal trader shall carry any trading activity in that area
  - iii. traders who carry out their work in accordance with the municipal regulations, policy and by-laws may not be:
    - Arbitrarily evicted from their stands.
    - Harassed, victimised or vandalised
    - Have their goods confiscated or their services suspended
  - iv. traders who carry out their work in accordance with the municipal regulations, policy and by-laws must be:
    - Given due recognition of their contribution to the city's GDP, and municipal income
    - Enjoy the full protection of the law as all other citizens, residents and workers
    - Meaningfully consulted on all decisions taken by the state or other parties who control city spaces that directly affect their lives and livelihoods

- The principle of minimum relocation away from their trading space shall be respected
  - v. Should traders be victimised, harassed, or vandalised or their goods arbitrarily confiscated or confiscated without due process then the matter will be taken to the Informal Trading Stakeholders Committee. A key function of the committee is to investigate and assist with reporting wrongdoing against traders.
- b) Maintenance of public trading space shall be ensured primarily by the City, in conjunction with traders and possibly other local stakeholders
- i. Every informal trader shall maintain cleanliness and public hygiene in the trading site s/he is occupying, and in the adjoining areas
  - ii. Every informal trader shall maintain in good conditions civic amenities, public infrastructure and property in the trading area, and not damage or destroy or cause any damage or destruction to the same.
  - iii. Every informal trader shall pay a contribution to the maintenance of public amenities, infrastructure and facilities provided in a trading area or on a trading site, as part of the trading fee determined by the municipality as per this policy.
  - iv. Given that there is a monetary exchange between traders and the City (rental fee), traders can expect basic levels of hygiene, cleanliness and urban management.
  - v. Should the City not meet its obligation, as landlord to the traders, then traders may take their complaints to the Informal Trading Stakeholders Committee. If the matter remains unresolved then clarity would need to be sought as to whether the Consumer Ombudsmen or the Commercial Property Ombudsmen would be the next appropriate step. Following which the traders would be within their rights to seek legal assistance due to breach of contract.

### **13. Law enforcement**

- a) Law enforcement will be undertaken in the interest of promoting the rights and dignity of informal traders.
- b) The City will act decisively against municipal employees who are found to be perpetrators of corruption, violence, xenophobia and abuse of power in relation to informal sector operators.

- c) Law enforcement will cover the areas of unlawful and prohibited conduct as well as trading in prohibited and restricted areas as contemplated in section 8, 9 and 10 of the Street Trading By-Law.
- d) Law enforcement in respect of unlawful and/or prohibited conduct shall be undertaken by JMPD or any law enforcement unit specifically constituted for this purpose.
- e) Law enforcement in respect of the removal and impoundment of goods shall be carried out by the JMPD or any authorised official as reflected in the JMPD Operating Procedures for Goods Impoundment. Section 11 of the Street Trading By-Laws sets out the procedure for the removal and impoundment of property.
- f) Where a trader violates the trading permit conditions, he/she will be informed in writing of the violation and course of action. Trading permit fees will not be refundable if the trading permit is revoked or suspended.
- g) An authorised person who finds a trader who does not comply with the basic health codes related to the preparation and selling of food, the trader would be told to close immediately and will only be allowed to trade once the authorised person has checked and agreed that the trader now complies.
- h) in the opinion of the official, the informal trader has:
  - i. traded goods or provided services in contravention of this policy;
  - ii. violated any condition applicable to the trading permit of an informal trader; or
  - iii. violated any condition imposed in respect of the trading area.

#### **14. Appeals**

- a) Section 62 of the Municipal Systems Act regulate and guides the appeals process. It states that any person whose rights are affected by a decision taken by the City in terms of this policy, under a duty of power which has been delegated or sub-delegated by the City, may appeal against the decision.
- b) An Informal Trader who is aggrieved regarding the trading space assigned to him/her and /or rental payable may lodge an appeal and request reconsideration of the decisions made in this regard.
- c) The City must ensure that an effective and legally compliant appeals process is in place in order to process any appeals lodged by aggrieved Informal Traders.
- d) Informal Traders must be advised of an opportunity to appeal against the allocation of space or rental required of him/her.

- e) An appeal authority must commence with an appeal within six (6) weeks and decide the appeal within a reasonable period as per Section 62 of the Municipal Systems Act.

## **15. Monitoring and Review**

- a) The informal Trading Policy must be reviewed annually to ensure that it complies with the City's strategic objectives and current legislation; this evaluation shall be undertaken via the Informal Trading Stakeholder Committee.
- b) At the end of five (5) years, the policy shall be reviewed against the problem statement, and the policy directives set out in this policy. A new problem statement and set of objectives should be determined by the all the stakeholders;
- c) Alternative forms of monitoring shall be used such as surveys, focus group discussion or workshops;
- d) In addition, the monitoring system shall be established in order to:
- i. Provide a centralised hub of data to allow the stakeholders to utilise the informal trading data and incorporate the informal economy into their planning processes and strategies;
  - ii. Conduct trend analyses and anticipate the growth of the sector over time;
  - iii. Identify the needs of the sector;
  - iv. Map of informal trading areas and trading bays and any shifts over time.
- e) An implementation plan to give effect to the policy shall be formulated within six (6) months of adopting a new or reviewed version of this policy.